

E-FILED - 4/24/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAY STEWART MILLER,

Plaintiff,

vs.

MICHAEL L. FRIEDMAN, et al.,

Defendants.

No. C 06-3551 RMW (PR)

ORDER OF DISMISSAL OF
CLAIMS AGAINST UNSERVED
DEFENDANT WITHOUT
PREJUDICE

Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983, alleging that medical staff at the High Desert State Prison and Correctional Training Facility (“CTF”) were deliberately indifferent to his medical needs. Defendants Friedman, Garcia, and Dayalan moved for summary judgment, and on January 15, 2009, the court granted summary judgment as to those defendants. Simultaneously, the court ordered plaintiff to locate the estate or representative of deceased defendant Dr. Krietler, and provide the court with accurate and current location information. The court also ordered counsel for defendants to investigate whether Dr. Krietler had a successor or representative and report his findings to the court within forty-five days.

On March 2, 2009, counsel for defendants filed a report indicating that he conducted a reasonable search and was unable to locate either a successor or representative of Dr. Krietler’s estate. To date, plaintiff has not filed any response.

1 The court's January 15, 2009 order cautioned plaintiff that, "if plaintiff fails to provide
2 the court with the accurate and current locations, within **sixty (60) days** of the date this order is
3 filed, plaintiff's claims against Dr. Krietler will be dismissed pursuant to Rule 4(m) of the
4 Federal Rules of Civil Procedure; the dismissal will be without prejudice to plaintiff refiling a
5 complaint with such information." More than sixty days have passed, and plaintiff has not
6 provided the court with any further identifying or location information for the estate or
7 representative of defendant Dr. Krietler.

8 Accordingly, plaintiff's claims against defendant Dr. Krietler are DISMISSED without
9 prejudice. The clerk shall terminate all pending motions, enter judgment, and close the file.

10 IT IS SO ORDERED.

11 DATED: 4/24/09


RONALD M. WHYTE
United States District Judge